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 14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

16 NETWORK APPLIANCE, INC.,

CASE NO. 3:07-CV-06053 EDL (JCS)

17 Plaintiff -- Counterclaim  
 18 Defendant,

SUN MICROSYSTEMS, INC.'S NOTICE OF  
 WITHDRAWAL OF MOTION TO COMPEL  
 PRODUCTION OF DOCUMENTS FROM  
 NON-PARTY ORRICK, HERRINGTON &  
 SUTCLIFFE

19 v.

Date: August 12, 2008

Time: 9:30 a.m.

Courtroom: E, 15th Floor

Hon. Elizabeth D. Laporte

20 Pursuant to Local Rule 7-7(e), Sun Microsystems, Inc. ("Sun") hereby withdraws its  
 21 Motion to Compel Production of Documents from Non-Party Orrick, Herrington & Sutcliffe  
 22 ("Orrick").

23 On July 8, 2008, Sun filed a motion to compel the production of documents from Orrick  
 24 in response to a subpoena served on January 22, 2008. On or around July 11, 2008, Orrick  
 25 produced documents responsive to the subpoena. As such, Sun's motion to compel is now moot.  
 26

The parties are continuing to meet-and-confer in good-faith to resolve any dispute regarding payment of costs.

Dated: July 28, 2008

DLA PIPER US LLP

By Mark D. Fowler  
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